

Serial No.: 10/529,120

Page 5 of 6

REMARKS

Favorable reconsideration of this application is requested in view of the above amendments and the following remarks. Claims 1-10 and 14-16 are pending. Claims 11-13 have been canceled without prejudice or disclaimer. The revisions to claim 1 are supported, for example at pages 19-21 of the specification and Figs. 8-10C. Editorial revisions have been made in the remaining claims.

Claim 5 was rejected as indefinite. Editorial revisions have been made in claim 5, and the rejection should be withdrawn.

Claims 1-16 were rejected as anticipated by Kellogg. Applicants respectfully traverse this rejection. Applicants note initially that Kellogg is not available as 35 USC 102(b) prior art as cited in the rejection (the present application enjoys the PCT filing date of September 25, 2003 as its US filing date). However, for purposes of this paper only, Applicants are not challenging the 35 USC 102(e) status of the reference.

Claim 1 is directed to an analytical tool, and requires a branching flow path that branches from the flow path upstream of reaction chamber and communicates with a gas discharge port closed by an openable first seal member. The opening of the first seal member permits liquid to be supplied to the branching position. The reaction chamber communicates with a second gas discharge port closed by an openable second seal member. The opening of the second seal member permits the liquid to move beyond the branching position and reach the reaction chamber. This provides closer control of the timing of delivering the sample to the reaction chamber.

Kellogg fails to disclose or suggest the first and second gas discharge ports and first and second seal members in the positions relative to the reaction chamber required by claim 1. Therefore, even if Kellogg discloses a separation film and capillary flow paths, the reference still fails to anticipate or even render obvious the invention of claim 1. The dependent claims are allowable for at least the same reasons as claim 1. Applicants are not conceding the relevance of the reference to the dependent claims.

Serial No.: 10/529,120

Page 6 of 6

IDS Issues

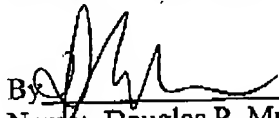
Applicants file here with an Abstract for WO 98/08606, the publication of the PCT application that is the parent for JP 2002-508698, which was indicated as not considered. A replacement 1449 form for this reference is filed herewith. If necessary, the fee of \$180 can be charged to Deposit Account 50-3478. Applicants also request acknowledgement that of the references submitted with the June 25, 2008 Supplemental IDS have been considered.

In view of the above, Applicants request reconsideration of the application in the form of a Notice of Allowance.

Respectfully submitted,

HAMRE, SCHUMANN,
MUELLER & LARSON, P.C.
P.O. Box 2902
Minneapolis, MN 55402-0902
Phone: 612-455-3800

Date: December 30, 2008

By 
Name: Douglas P. Mueller
Reg. No. 30,300
Customer No. 52835